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May 1, 2019

Via Email

Shawn Musgrave
c/o MuckRock News
DEPT MR 70102
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RE: Your Recent Public Records Request (DOJ PRA 2019-00489)

Dear Mr. Musgrave:

This letter is in response to your correspondence received by the California Department of Justice (DOJ) on March 30, 2019, requesting that we waive certain exemptions to disclosure -- the deliberative process, attorney work product, and attorney-client privilege -- under the California Public Records Act that were asserted in our response letter dated March 28, 2019. (Gov. Code, § 6250 et seq.)

The public interest in maintaining the confidentiality of records reflecting the research, reasoning, and opinions of attorneys and of confidential communications between attorney and client clearly outweigh the public interest in disclosure. These foundational interests in the confidentiality of legal counsel representations have long been recognized by the courts and are expressly recognized in California law, including through incorporation into the Act. (*Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 371.)

You asked for additional clarification regarding our use of the balancing test in Government Code section 6255 to withhold specified records from public disclosure. Because of the strong public interest in permitting the Attorney General to engage in candid communications with his executive staff as he develops his judgments about Department of Justice matters, we will continue to withhold these records. The withheld records involve communications between the Attorney General and his executive staff on a variety of matters, such as criminal investigations, legislation, and healthcare. And in each context, the public interest in nondisclosure clearly outweighs the public interest in disclosure. Notable in relation to your request, none of the records withheld under

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the deliberative process exemption concerned issues related to the conduct of the Commission on Peace Officers Standards and Training or any of its officers or employees, summary criminal history information, or the inadvertent disclosure of data to the media. In each instance, the records withheld under this exemption just happened to contain an incidental reference to a term appearing in your request, such as "Berkeley." As you may imagine, such terms appear in many contexts (e.g., a professor's place of employment, the city designated in an address, part of a business name). We do not suggest that the fact that the topics of these records were unrelated to the topic of interest described in your request affects whether they are or are not exempt from disclosure under the Act. But we do want to inform you of that fact because you described your interest in some detail in your message to us.

Sincerely,

/s/ Public Records Coordinator

Public Records Coordinator

For XAVIER BECERRA
Attorney General